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Department of the Treasury
Washington, DC 20224

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Refer Reply To:
CC:FIP:B02
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Date:
January 18, 2017

Legend

Fund A =

Fund B =

Dear _____ :

This letter revokes a part of PLR 201039002 (PLR-101134-10¹) issued to Funds A and B (the “Funds”) on June 22, 2010.

In PLR 201039002, the Internal Revenue Service (the “Service”) issued rulings that (i) income and gain from certain commodity-linked notes constitute qualifying income under section 851(b)(2) (the “CLN Ruling”), and (ii) subpart F income and QEF

¹ PLR-101134-10 is the controlling PLR number for a multi-filer private letter ruling. Each of Funds A and B were assigned a separate PLR number. This letter refers to the controlling PLR number, but applies equally to the rulings issued to both of the Funds under their respective, separately assigned PLR numbers.

inclusions of the Subsidiaries attributable to the Funds is other income derived from the Funds' business of investing in stock, securities, or currencies and, therefore, constitutes qualifying income under section 851(b)(2) (the "Subsidiary Ruling"). In a letter dated September 29, 2016, the Service notified the Funds that it was considering revoking the CLN Ruling.

Since issuing PLR 201039002, the Service has determined that having provided a private letter ruling on the issue in the CLN Ruling is not in accord with the current views of the Service. See Rev. Proc. 2016-50, 2016-43 I.R.B. 522, superseded by Rev. Proc. 2017-3, 2017-1 I.R.B. 130, 140 (section 4.01(44)); see also REG-123600-16, 81 Fed. Reg. 66576-77 (Sept. 28, 2016). Section 11.04 of Rev. Proc. 2017-1, 2017-1 I.R.B. 1, 61, provides, in part, that unless it was part of a closing agreement, a letter ruling found to be in error or not in accordance with the current views of the Service may be revoked or modified. Accordingly, the CLN Ruling in PLR 201039002 is revoked. The Subsidiary Ruling is not revoked and that portion of PLR 201039002 remains in effect at this time.

Section 11.04 of Rev. Proc. 2017-1 also provides that, if a letter ruling is revoked, the revocation applies to all years open under the statute of limitations on assessment unless the Service uses its discretionary authority under section 7805(b) to limit the retroactive effect of the revocation. To date, the Funds have not responded to the September 29, 2016, letter from the Service with a request for relief under section 7805(b). Therefore, the revocation of the CLN Ruling in PLR 201039002 applies retroactively to all years open under the statute of limitations on assessment as of the date of this letter and to all future years.

We are sending a copy of this letter to the appropriate operating division.

Sincerely,

Andrea M. Hoffenson
Andrea M. Hoffenson
Branch Chief, Branch 2
Office of Associate Chief Counsel
(Financial Institutions and Products)